THE HONOURABLE SRI JUSTICE V.ESWARAIAH

Date:23-3-2006

WRIT PETITION No. 5796 OF 2006

BETWEEN:

Gaddam Lachaiah

…Petitioner

And

The Collector (Panchayat Wing), Adilabad and others.

…Respondents

ORDER:

The petitioner seeks to issue a writ of mandamus declaring the action of the first respondent in suspending the petitioner from the post of Sarpanch of Gram Panchayat, Parpally village by exercising the powers under Section 249(6) of the Andhra Pradesh Panchayat Raj Act, 1994 as illegal and arbitrary.

Heard the learned counsel appearing for the petitioner as well as the learned Government Pleader for Panchayat Raj and Rural Development appearing for the respondents.

It is stated that the petitioner was elected as Sarpanch of Parpally

village of Kotapally Mandal, Adilabad District. On a complaint given by the Upa-Sarpanch of Parpalli village, the Divisional Panchayat Officer, Asifabad made an enquiry with regard to the execution of two works. Pursuant to his report, a show cause notice dated 13-3-2005 was issued calling upon the petitioner to show cause as to why suitable action should not be taken against him under Section 249(6) of the Andhra Pradesh Panchayat Raj Act, 1994 (for short "the Act). The petitioner submitted his explanation on 21-4-2005. After considering the explanation and the representation of the petitioner date 22-10-2005, he was placed under suspension by order dated 12-12-2005 on the ground that the petitioner failed to produce the records for a long time with regard to the execution of 13 works and on the allegation that the petitioner has adjusted an amount of Rs.2,07,528/- under cash component duly recording in the Measurement Books, but the said records have not been produced. As against the said order, the petitioner filed a revision before the Government under Section 264 of the Act on 18-1-2006 along with a stay application and thereafter, the third respondent issued a notice dated 25-1-2006 fixing the date of hearing on 13-2-2006 and the authorities were also directed to send the report to the Government on or before 9-2-2006. It is stated that the revision was heard on 13-2-2006 and relevant records were also produced, but the Government did not pass any orders in the revision.

It is stated that under Section 249(6) of the Act, the Collector can place the Sarpanch under suspension not exceeding three months only pending investigation. Having suspended the petitioner by proceedings dated 12-12-2005, investigation in the matter has not been completed and the maximum period of three months was also expired by 12-3-2006. Therefore, it is stated that the said suspension order, unless extended by the Government, cannot be continued after 12-3-2006.

Having regard to the facts and circumstances of the case, the first respondent is directed to revoke the suspension order dated 12-12-2005 forthwith. However, such revocation will be subject to the orders

that may be passed by the Government for extension of suspension as per the second proviso to sub Section (6) of Section 249 of the Act. The third respondent is also directed to pass orders on the revision filed by the petitioner within three weeks from the date of receipt of copy of this order.

The writ petition is disposed of accordingly.

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V.ESWARAIAH, J

Date: 23-3-2006.

Note:-

Issue C.C. in 3 days.

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Shr.